



County of Los Angeles  
**CHIEF EXECUTIVE OFFICE**

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WILLIAM T FUJIOKA  
Chief Executive Officer

October 15, 2007

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TO: Supervisor Zev Yaroslavsky, Chairman  
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FROM: William T Fujioka  
Chief Executive Officer

**REPORT ON THE STATUS OF THE EVALUATION OF THE CALIFORNIA SUPREME COURT'S DECISION IN O'CONNELL V. CITY OF STOCKTON AND RECOMMENDATIONS FOR STATE LEGISLATION OR REVISIONS TO COUNTY ORDINANCES (ITEM 8, AGENDA OF SEPTEMBER 4, 2007)**

On September 4, 2007, your Board instructed the Chief Executive Officer (CEO), working with County Counsel, the District Attorney, and the Sheriff to:

- Further evaluate the issues for enforcement of local vehicle forfeiture ordinances raised by the California Supreme Court's recent decision in O'Connell v. City of Stockton; and
- Report back with recommendations for State legislation and/or revisions to existing County ordinances that would guarantee their compliance with existing State laws relating to preemption and due process.

On July 27, 2007, County Counsel advised the Board that the California Supreme Court had ruled the City of Stockton's ordinance providing for the forfeiture of vehicles used in connection with the acquisition of controlled substance or the solicitation of prostitution was preempted by State law, O'Connell v. City of Stockton, 2007 DJDAR 11377.

On July 31, 2007, the Board instructed County Counsel, in conjunction with the District Attorney's office and Sheriff's Department, to evaluate the effect of the O'Connell decision on the ongoing validity of the County's existing vehicle forfeiture ordinances

and to make recommendations for the Board's consideration on this subject, including the option of seeking legislation.

On August 20, 2007, County Counsel reported its analysis of the O'Connell decision and its impact on the County's current vehicle forfeiture ordinances for illegal dumping, speed contest/exhibition of speed offenses, water theft offenses, and a new vehicle forfeiture ordinance based upon graffiti activity.

As a result of this analysis, County Counsel suggested the County support the efforts of cities and other counties seeking legislation in response to the *O'Connell* decision, to either add forfeiture as a direct remedy within the vehicle code or specifically authorize local vehicle forfeiture ordinances as a remedy for offenses which are of particular concern to them. If the latter is pursued, the County should ask that the legislation specifically authorize forfeiture for illegal dumping, speed contest/exhibition of speed, water theft, and graffiti activity. County Counsel is of the opinion that by including these offenses, we will ensure the defensibility of our local vehicle forfeiture ordinances and eliminate any doubt as to the County's authority in those areas.

Finally, while the California Supreme Court did not find it necessary to address alleged "due process" weaknesses in the *City of Stockton's* forfeiture ordinance, the District Attorney's office did nevertheless review the County's vehicle forfeiture system to determine whether due process enhancements were warranted. The District Attorney recommended in County Counsel's August 20, 2007 memorandum to your Board that the following provisions be included in forfeiture ordinances adopted by the County: 1) Retain Possession through posting a bond; 2) Extreme Hardship Waiver; and 3) Innocent Owners. The District Attorney believes by adding these provisions, the County will further reinforce the defensibility of its forfeiture process.

Although County Counsel, in conjunction with the District Attorney and Sheriff's Department, has completed their analysis of the *O'Connell* decision and the impact it will likely have on the County's current vehicle forfeiture ordinances, additional time is required for the CEO's office to complete its review of pending State legislation. CEO Intergovernmental Relations (IGR) staff is currently developing the County's annual proposed State legislative agenda for Board consideration later this year. Until IGR's legislative analysis is complete, it is not possible for the CEO's office to provide recommendations on pending legislation or determine if new legislation should be pursued. Therefore, given the complexity of this matter and the need for a thorough and comprehensive analysis, an extension of the reporting deadline by 60 days, to December 4, 2007 is requested.

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Should you have any questions or require additional information, please contact Deputy Chief Executive Officer, Doyle Campbell, Public Safety, at (213) 893-2374.

WTF:SRH:RDC  
JW:SW:GY:yjf

c: Intergovernmental Relations  
County Counsel

OConnelvStockton.bl